

Message Text

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ACTION EUR-12

INFO OCT-01 ISO-00 OPIC-06 AID-05 IGA-02 EB-07 SP-02

L-03 SS-15 NSC-05 CIAE-00 INR-07 NSAE-00 PRS-01

XMB-04 SSO-00 NSCE-00 INRE-00 EURE-00 /070 W

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FM AMEMBASSY LISBON

TO SECSTATE WASHDC IMMEDIATE 1806

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E.O. 11652: N/A

TAGS: EINV, PO

SUBJ: RESUMPTION OF OPIC PROGRAM

REF: (A) STATE 208121 DATED MAY 23, 1976, (B) STATE 125430;

(C) LISBON 4548

1. FOREIGN MINISTRY HAS PROPOSED FOLLOWING DIPLOMATIC NOTE AND INTERPRETATIVE NOTE WHICH IT WOULD SEND IN RESPONSE TO A USG NOTE, SUGGESTED REFTEL A, RESUMING OPIC PROGRAM IN PORTUGAL. EMBASSY REQUESTS OPIC COMMENT ON SUGGESTED CHANGES FOR TRANSMISSION TO GOP.

2. EXCELENCIA,
TENHO A HONRA DE ME REFERIR A NOTA DE V.EXA. NO. DE DO CORRENTE E DE COMUNICAR QUE O GOVERNO PORTUGUES DA O SEU ACORDO A QUE OS PROGRAMAS DE INCENTIVO AO INVESTIMENTOS, AUTHORIZADOS NO ACORDO DE COOPERACAO ECONOMICA DE 1948, EMENDADO POR TROCA DE NOTAS DE 22 E 25 DE MAIO DE 1953, E QUE SAO ACTUALMENTE GERIDOS PELA "OVERSEAS PRIVATE INVESTMENT CORPORATION (O.P.I.C.)" SEJAM RESTABELECIDOS RELATIVAMENTE A ACTIVIDADES AUTORIZADAS PELAS COMPETENTES AUTORIDADES PORTUGUESAS.

2. TENHO AINDA A HONRA DE PROPOR A V.EXA. QUE, PARA EFEITO DE
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APLICACAO DO PROGRAMA DE SEGUROS DA O.P.I.C., O ARTIGO II DO ACORDO DE COOPERACAO ECONOMICA, BEM COMO O CONCEITO DE EXPROPRIACAO SEJAM ENTENDIDOS NOS TERMOS DA NOTA INTERPRETATIVE ANEXA.

3. CASO ESTA PROPOSTA MERECA A CONCORDANCIA DE V.EXA. MUITO AGRADECIA QUE TAL ME FOSSE COMUNICADO POR NOTA.
QUEIRA ACEITAR, EXCELENCIA, OS PROTESTOS DA MINHA MAIS ELEVADA

CONSIDERACAO.

NOTA INTERPRETATIVA

FICA ENTENDIDO PARA EFEITOS DE APLICACAO DO PROGRAMA DE SEGUROS
DA O.P.I.C.:

1. QUE A ALINEA A) DO ARTIGO III DO ACORDO DE COOPERACAO
ECONOMICA DE 1948, NAO PODERA SER ENTENDIDA COMO SIGNIFICANDO
QUE O RECONHECIMENTO ALI FEITO DE DIREITO DE SUBROGACAO DO GOVERNO
DOS ESTADOS UNIDOS IMPLICA A ADMISSAO DE QUE O GOVERNO PORTUGUES
FICA RESPONSAVEL PELA IMPORTANCIA PAGA EM RESULTADO DO SEGURO
OU DAS GARANTIAS CONCEDIDAS PELOS E.U.A. O MONTANTE DA
RESPONSABILIDADE DO GOVERNO PORTUGUES, CASO EXISTA, SERA DEFINIDO
COM BASE NAS LEIS EM VIGOR EM PORTUGAL, NAS LEIS OU ACORDOS
INTERNACIONAIS, OU EM QUAISQUER ARRANJOS OU ACORDOS DE QUE SEJA
PARTE O GOVERNO PORTUGUES E QUE RESPEITEM AO INVESTIMENTO A
QUE SE REFERE A RECLAMACAO EM CAUSA.

2. QUE A O.P.I.C. DEVERA TER EM CONSIDERACAO NA EXECUCAO DO SEU
PROGRAMA DE SEGUORS, O CONCEITO DE EXPROPRIACAO TAL COMO SE
ENCONTRA DEFINIDO NA LEGISLACAO INTERNA PORTUGUESA."

3. INFORMAL ENGLISH TRANSLATION IS AS FOLLOWS:

1. I HAVE THE HONOR TO REFER TO YOUR NOTE NO. OF AND
TO COMMUNICATE THAT THE PORTUGUESE GOVERNMENT AGREES THAT THE
PROGRAMS OF INVESTMENT INCENTIVES, AUTHORIZED IN THE ECONOMIC
COOPERATION AGREEMENT OF 1948 AS AMENDED BY EXCHANGE OF NOTES
OF MAY 22 AND 25 1953, WHICH ARE CURRENTLY OPERATED BY "OVERSEAS
PRIVATE INVESTMENT CORPORATION (O.P.I.C.)", BE REESTABLISHED
RELATIVE TO ACTIVITIES AUTHORIZED BY THE COMPETENT PORTUGUESE
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AUTHORITIES.

2. I ALSO HAVE THE HONOR TO PROPOSE TO YOU THAT FOR THE EFFECT
OF APPLICATION OF THE OPIC INSURANCE PROGRAM, ARTICLE III OF
THE ECONOMIC COOPERATION AGREEMENT AS WELL AS THE CONCEPT OF
EXPROPRIATION BE UNDERSTOOD ACCORDING TO THE TERMS OF THE
ENCLOSED INTERPRETATIVE NOTE.

3. IN CASE YOU AGREE WITH THIS PROPOSAL I SHOULD BE GRATEFUL
THAT SUCH BE COMMUNICATED TO ME BY NOTE. PLEASE ACCEPT ETC.

INTERPRETATIVE NOTE

IT IS UNDERSTOOD FOR THE EFFECTS OF THE APPLICATION OF THE OPIC
INSURANCE PROGRAM:

1. THAT LINE A) OF ARTICLE III OF THE ECONOMIC COOPERATIVE
AGREEMENT OF 1948 CANNOT BE UNDERSTOOD AS MEANING THAT THE
RECOGNITION MADE THERE OF THE RIGHT OF SUBROGATION OF THE UNITED
STATES GOVERNMENT IMPLIES THE ADMISSION THAT THE PORTU-

GUESE GOVERNMENT IS RESPONSIBLE FOR THE AMOUNT PAID AS A
RESULT OF THE INSURANCE OR GUARANTEES CONCEDED BY THE USA.
THE AMOUNT OF THE PORTUGUESE GOVERNMENT'S LIABILITY,
IN CASE IT EXISTS, WILL BE DEFINED ACCORDING TO THE LAWS
IN FORCE IN PORTUGAL, TO INTERNATIONAL LAWS OR AGREEMENTS, OR TO
ARRANGEMENTS OR AGREEMENTS TO WHICH THE PORTUGUESE GOVERN-
MENT IS A PARTY AND WHICH ARE RELATED TO THE INVESTMENT
TO WHICH THE SUBJECT CLAIM REFERS.

2. THAT IN THE EXECUTION OF ITS INSURANCE PROGRAM
OPIC WILL TAKE INTO CONSIDERATION THE CONCEPT OF EXPROPRIA-
TION AS IT IS DEFINED IN PORTUGUESE DOMESTIC LEGISLATION.
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Message Attributes

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Disposition Event:
Disposition History: n/a
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Disposition Remarks:
Document Number: 1977LISBON04711
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Document Unique ID: 00
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Executive Order: N/A
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TAGS: EINV, PO
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